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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 TRANSBAY AUTO SERVICE,

No. C 09-04932 SI

9 Plaintiff,

**ORDER DENYING PLAINTIFF'S
MOTION FOR SANCTIONS**

10 v.

11 CHEVRON CORP,

12 Defendant.
13 _____/

14 A jury trial in this case began on June 20, 2011. That night, defendant's trial counsel became
15 sick. On June 22, 2011, when it was clear that defense counsel would be unable to continue with the
16 trial, and on the representation that no other attorney could act in his stead, the Court declared a mistrial.
17 See Civil Trial Minutes (Doc. 104). Plaintiff moved for sanctions, arguing that defendant should be
18 ordered to pay plaintiff the fees and costs it incurred preparing for the trial. See *id.* Plaintiff argues that
19 the Court has the inherent power to order such sanctions. Defendant opposes the request, arguing that
20 sanctions cannot be imposed absent evidence of wrongdoing, and that there is no evidence of
21 wrongdoing in this case.

22 "Under its 'inherent powers,' a district court may . . . award sanctions . . . against a party or
23 counsel who acts 'in bad faith, vexatiously, wantonly, or for oppressive reasons.'" *Leon v. IDX Systems*
24 *Corp.*, 464 F.3d 951, 961 (9th Cir. 2006) (*quoting Primus Auto. Fin. Servs., Inc. v. Batarse*, 115 F.3d
25 644, 648 (9th Cir.1997)). "The bad faith requirement ensures that the district court's exercise of its
26 broad power is properly restrained." *Id.*


27 Plaintiff argues that sanctions may be awarded here because defendant failed to disclose to the
28 Court that it was represented by two other attorneys in this action, either of whom could have assumed

1 the role of trial counsel, before the Court declared a mistrial. Defendant has filed an affidavit in
2 response, attesting to facts that support a conclusion that neither of the attorneys referred to by plaintiff
3 was a trial lawyer familiar with the facts of this case. The Court does not find that defendant or defense
4 counsel acted "in bad faith, vexatiously, wantonly, or for oppressive reasons," and therefore plaintiff's
5 motion for sanctions is DENIED.

6 This order is without prejudice to any argument that plaintiff might make, if successful at trial,
7 that plaintiff is entitled to the costs and fees it incurred preparing for the June trial.

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9 **IT IS SO ORDERED.**

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11 Dated: August 8, 2011

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13 SUSAN ILLSTON
14 United States District Judge
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